


<b>Policy Subject:</b>	<b>Substance Exposed Newborn; Plans of Safe Care</b>  <p><b>Effective June 1, 2018</b>, Maryland has amended section §5-704.2 of the Family Law Article to come into compliance with the Comprehensive Addiction and Recovery Act of 2016 as it amended the Child Abuse Prevention and Treatment Act. The new law requires reports of and safe plans regarding substance exposed newborns regardless of whether the mother was taking a prescribed drug in accordance with a prescription.</p>
<b>Effective Date:</b>	June 1, 2018
<b>Approved By:</b>	Rebecca Jones Gaston, MSW  Executive Director Social Services Administration
<b>Policy Number:</b>	SSA/CW #18-17
<b>Revision Date (s):</b>	SSA # 14-11 October 1, 2013 SSA #12-17 September 16, 2011
<b>Originating Office:</b>	Office of Child and Family Well-Being
<b>Supersedes:</b>	SSA # 14-11 SSA # 12-17
<b>Program Affected:</b>	Child Protective Services/Family Preservation Services

**Legal Information & Purpose:**

The Comprehensive Addiction and Recovery Act of 2016 (P.L. 114-198) (CARA) amended the Child Abuse Prevention and Treatment Act (CAPTA) to require States to develop a plan of safe care for *all* babies: 1) affected by a mother's consumption of a controlled substance, 2) withdrawing from a controlled substance, or 3) showing signs of a Fetal Alcohol Spectrum Disorder (FASD). Nationally and within Maryland, the rate of opioid misuse, dependence, and deaths continues to rise. This increase has impacted the child welfare system as evidenced by increased caseloads, newborns and children entering foster care, and newborns experiencing Neonatal Abstinence Syndrome (NAS). CAPTA now requires that States have a plan to address a substance exposed newborn's safety and well-being by addressing the substance use treatment needs of the newborn and the newborn's family, regardless of whether the mother was taking a legally prescribed substance. This year, Maryland came into compliance with federal law with the passage of amendments to Md. Code Ann., Fam. Law §5-704.2.

**Policy:**

This policy is being reissued to comply with amendments to the Maryland Child Abuse and Neglect-Substance-Exposed Newborn (SEN) law, effective June 1, 2018, and to provide updated guidance to assist each Local Department of Social Services (LDSS) in addressing the effects of substance use disorders on newborns, children, and families and their needs. As set for below, the amended law altered the definition of SEN, altered reporting requirements of SENs for health care practitioners, and repealed an exception to reporting for mothers taking a prescribed medication in accordance with a prescription. The Department will also be issuing regulations.

Each LDSS must respond to the needs of newborns who have been exposed to substance use and their families in accordance with the requirements of Maryland law and CARA. The LDSS must develop and monitor a Plan of Safe Care for each newborn exposed to a legal or illegal controlled substance, to address the newborn's safety and well-being, and must address the family's service or treatment needs. There are a number of related Social Services Administration (SSA) policies that are still applicable and SSA will provide future guidance for the implementation of this policy. Refer to the Related Policies and Information section of this document.

**Definitions:**

*"Health Care Practitioner"* as stated in Health Occupations Article, 1-301, Annotated Code of Maryland.

*"Newborn"* means a child less than 30 days old.

*"Substance-Exposed Newborn/SEN"* means a newborn:

- Who has positive toxicology screen for a controlled substance as evidenced by any test after birth;
- Who displays the effects of substance use or symptoms of withdrawal resulting from the mother's prenatal substance use as determined by medical personnel; or
- Who displays the effects of a FASD

*"Controlled drug"* means a controlled dangerous substance include in Schedules I through V under Title 5, Subtitle 4 of the Criminal Law Article, Annotated Code of Maryland.



*“Fetal Alcohol Spectrum Disorder/FASD”* term for the wide range of effects from prenatal alcohol exposure, including a broad array of physical defects and cognitive, behavioral, emotional, and functioning deficits.

*Plans of Safe Care (POSC):* A written plan that addresses the health and substance use disorder treatment needs of the infant and affected family or caregiver. The Plan shall be developed with input from the parents or other caregivers, as well as any collaborating professional partners and agencies involved in caring for the infant and family.

**Under the amended law effective June 1, 2018:**

A Health Care Practitioner (HCP) is still required to notify the LDSS and make a written report if:

- The newborn has a positive toxicology screen;
- The newborn display the effects of withdrawal from controlled substance exposure as determined by medical personnel; OR
- The newborn displays the effects of Fetal Alcohol Spectrum Disorder.

Under the amended law, the HCP is not required to notify the LDSS or make a written report if:

- The HCP has knowledge that another individual at the institution has made a report regarding the substance exposed newborn; or
- The HCP has verified, at time of delivery that the, mother was using a controlled substance as currently prescribed by a licensed HCP, and the presence of the controlled substance was consistent with the prescription or treatment of the mother AND:
  - The newborn does not display the effects of withdrawal from controlled substance exposure as determined by medical personnel;
  - The newborn is not affected by substance abuse; AND
  - The newborn does not display the effects of Fetal Alcohol Spectrum Disorder.
- The HCP does not need to notify or make a written report to the LDSS if:
  - The only sign of a mother’s prenatal substance use is a positive toxicology screen of mother, with no positive toxicology screen of the infant or signs that the newborn is affected by the substance or experiencing withdrawal; or
  - The mother was taking a prescribed substance in accordance with a prescription and the ONLY evidence of this in the newborn is a positive toxicology test.

The law does not relieve the HCP of the obligation as a mandated reporter to make a report to the local department if the health care practitioner has reason to believe that the substance-exposed newborn has been abused, neglected, or caregiver impairment poses as a risk of safety for newborn.

**Procedures and Timeframes:**

- The LDSS should continue to accept all reports made within 30 days of a child’s birth regarding the newborn’s substance exposure.
  - These reports must be carefully screened to, as available, obtain:
    - the name, date of birth, and home address of the newborn;

- the names and home addresses of the newborn's parents or other caregivers;
- the results of any toxicology screening of the newborn;
- any information a health care provider has verified regarding the mother's use of a drug used for treatment or of any other prescribed drug and whether the mother's use appeared to be consistent with any known treatment or prescription.
- the nature and extent of the effects of the prenatal alcohol or substance exposure on the newborn;
- the nature and extent of any impact alcohol or substance appears to have had on the mother's ability to provide proper care and attention to the newborn;
- the nature and extent of the risk of harm to the newborn; and
- any other information that would support a conclusion that the needs of the newborn require a prompt assessment of risk and safety, the development of a plan of safe care for the newborn, and referral of the family for appropriate services.

See SSA-CW#18-09 CPS Screening and intake policy for SEN screening directives.

Note: When entering the referral into MD CHESSIE, if baby's name is unknown at the time of intake and baby is created as "Baby Doe" and the baby's name becomes known at a later time, do NOT create another person, LDSS staff should update the demographic folder with the now known name of baby.

- All incoming SEN cases primary program assignment code shall be entered in MD CHESSIE as "Family Preservation" and the subprogram shall be entered as "consolidated services."

**Within 48 hours** of SEN referral acceptance child welfare staff shall complete and perform the following:

- Initial contact and assessment with newborn and mother to complete the following:
  - Safety Assessment for Every Child (SAFE-C);
  - Complete Alcohol and Other Drug (AOD) in CHESSIE. If at least one "yes" box checked, referral to substance use assessment shall be completed;
- Notify reporter of case acceptance status;
- Consult with the appropriate HCP to obtain additional knowledge of the newborn's condition and the effects of alcohol, drug exposure, and/or withdrawal; and
- Obtain any information listed above that was not obtained during screening *in addition to* the following:
  - A complete report of the newborn's and mother's medical condition.
  - The results of any toxicological screening on the newborn or mother;
  - The newborn's medical condition and any current or ongoing health care needs including the need for:
    1. An extended hospital stay prior to discharge; or
    2. Specific medical needs, including any planned procedures, medication; specialized equipment, or ongoing monitoring;
  - Whether and when the newborn's mother received prenatal care;
  - The extent to which the mother is responsive to the newborn's needs and is involved with providing care;



- The nature and extent of any history of mental illness or intimate partner violence;
- The nature and provider of any current substance use treatment in which the mother has participated or is currently participating; and
- The mother's intention to pursue treatment for any current substance use;
- Any substance use disorders in other members of the family;
- The presence of any other supportive adult relative or caregiver;
- Any other information that would support the need for a prompt assessment of the risk to, and safety of, the newborn.

Note: Any medical report received from a hospital must be scanned into newborn/child **MD CHESSIE File Cabinet** titled, "Year, month, date, title, name (i.e. 20180531-Health-Medical report-Janeadams)"

#### **Assessment Procedures:**

- Assessments of all other children in home and any other individual responsible for the care of newborn must be completed within 5 calendar days of case acceptance. If safety cannot be assessed within 5 days, attempts to assess the safety must be documented in case file. All children in the household should be assessed for safety.
- Visiting the home where the newborn will reside prior to or at the time of the newborn's discharge is best practice when possible. Complete Home Health form (DHR/SSA 1083) to document conditions of home environment with completed form scanned into to case head/mother's **MD CHESSIE File Cabinet** titled:  
"Year, month, date, title, name" (20180531-SEN home health form Janeadams).  
If assessment of the home is not possible within time period, attempts to assess the home must be documented in the case file.
- Engage parents to address safety concerns and services to support family needs as evidenced by documentation in contact note regarding:
  - Safe Sleep
  - Fire Safety Tips
  - Second-Hand Smoke
- Engage parents in a discussion of treatment needs and develop a preliminary plan of required services and treatment, how services may be obtained, and;
- Develop with the parents a plan for the LDSS to monitor the parent's compliance with recommended services or treatment.

Within **30 days** of SEN referral acceptance child welfare staff shall complete the following:

- Maryland Family Risk Assessment (MFRA)
- Child and Adolescent Needs and Strengths-Family Version (CANS-F)

#### **Assessment Findings:**

The assessment period for SENs is 60 days. Once a SEN report is opened, the 60-day assessment period serves to identify and provide the newborn, parent, caregivers or other family members services including services that can be provided within 60-days or those that will require continued services.

**Development of a Plan of Safe Care (POSC):**

All SEN cases must include the completion of either a Safety Plan and/or a Service Plan as applicable which shall be documented in CHESSIE with all of the necessary information

- In low risk cases in which it has been determined that caregiver is appropriately able to care for the newborn and no further services or interventions are needed, a service plan would still need to be completed. The factors that exist to indicate this is a low risk case and no further intervention is warranted should be documented as the service plan.
- The family who is receiving all appropriate services at the time the LDSS intervenes, can be “referred back” to those appropriate services. The service plan should be used to document the services in place and the plan to continue these services.
- The LDSS shall monitor the safety and service needs of the infant and family identified in the safety and/or service plan throughout the life of the case.
- The development of the POSC is a combination of efforts captured in several documents (i.e Safety Plan, and or Service Plan, referrals to services, referrals to treatment, etc.). The summary of the POSC will be captured in the Family Services Review Form. The POSC:
  - Should be based on a comprehensive multidisciplinary assessment and coordinated across the multiple agencies and providers involved in caring for infant, mother, and any other affected caregivers;
  - Should be developed with the mother, her personal support system, health care provider and other providers involved in her care (i.e. behavioral health provider, Medication- Assisted Treatment (MAT) provider, home visitor etc.) and used to identify and link families with the resources they need to address challenges of substance use; and
  - Is intended to be a living document to capture information such as infant and caregivers basic needs, discharge plans, supports needed and follow up plans.

Note: Due to the constraints of the Family Services Review Form, the LDSS are free to utilize additional forms to capture information needed for POSC if necessary. However the completion of the Family Services Review Form will be utilized as SSA’s internal monitoring of implementation of POSC and must be completed.

**Family Services Review Form:**

- The Family Services Review Checklist-Review of Plan of Safe Care must be completed and uploaded in **MD CHESSIE file cabinet** on or before the 60th day. The form must be titled “POSC, case name”( i.e. POSC Jane Adams). The action will designate the end of the assessment period and will indicate in MD CHESSIE that a POSC has been completed for the SEN.
- If further services are needed beyond 60 days, the LDSS staff shall document needed services on Family Services Review Form; POSC.
- The Family Services Review form should be checked as a Review of Plan of Safe Care and shall be completed upon case closure.



- This form must be documented and scanned in CHESSIE
  - A fillable pdf form is accessible via DHS Knowledge Base:  
Link <http://kb.dhs.maryland.gov/search-documents/>
  - To access form type “**Family Services Review**” in Knowledge Base search bar

**Document all referrals in service log, regardless if it is a paid or unpaid service.** This could include but is not limited to: Infants and Toddlers, substance use disorder testing, assessment, and treatment for any household member or mental health treatment. Referrals completed by other professionals such as the hospital should also be included in the service log.

**Intended Action Letter** (DHR/SSA 1068A) should be sent to the family upon case closure. It should contain all necessary or recommended services, medical care, or treatment, a schedule for any follow-ups for newborn, recommendations, referrals for newborn and parent, a monitoring plan, and any agreements by other family or caregivers to support the newborn and mother. Both documents should be scanned into child’s MD CHESSIE File Cabinet titled, “Plan of Safe Care” with date completed (e.g. Plan of Safe Care March 1, 2018)

## APPENDIX

## State of Maryland - Department of Human Services

## Family Services Review

This Family Services Review is being used as a: ☒ Review of a Plan of Safe Care ☐ Family Services Review

## I. Services Status Decision

Complete A and B.

## A. DOES THIS FAMILY NEED FURTHER SERVICES (Answer all that apply)

1. ☒ Yes, Intra-Agency Services Needed Or Continued

a. ☐ Based on the family's current needs, a referral has been made or an assignment is recommended to:

i. ☐ Child Protective Services

ii. ☒ Family Preservation Services (please check one of the following intensity levels):

1. ☐ Family Preservation Services

2. ☐ Voluntary Placement Services

a. ☐ Time-limited b. ☐ Child with disabilities

b. ☐ Service remains open in current program

c. ☐ Continuation of Out-of-Home Care Recommended? ☐ Yes ☐ No (Check one below)

i. ☐ Foster Care ii. ☐ Kinship Care iii. ☐ Adoption iv. ☐ Respite v. ☐ Other \_\_\_\_\_

d. ☐ Recommended court action to obtain:

i. ☐ Order of Shelter Care

ii. ☐ Commitment Rights

iii. ☐ Termination of Parental Rights

iv. ☐ Order of Protective Supervision

v. ☐ Custody And Guardianship

vi. ☐ Other \_\_\_\_\_

e. ☒ Family members have been referred to the local Addictions Specialist for an Alcohol and Other Drug (AOD) assessment. (Check one below)

i. ☒ Consent Form completed

ii. ☒ Referral for AOD Assessment Form completed and sent

2. ☐ Yes, Administrative Approval For Agency Services Needed

a. ☐ Administrative Extension for Family Preservation Services beyond mandated timeframes

i. Expected Amount of Time Needed for Extension \_\_\_\_\_ ii. Reason for Requested Extension \_\_\_\_\_

b. SSA Policy Analyst Approved (Required For All Voluntary Placements - Children with Disabilities) ☐ Yes ☐ No

3. ☒ Yes, Referral Made To Inter-Agency Or Community Based Provider For Continued Services (if checked complete B)

a. Name of Program Epoch Counseling Date of Referral \_\_\_\_\_ Type of Service Substance Abuse Tx

b. Name of Program \_\_\_\_\_ Date of Referral \_\_\_\_\_ Type of Service \_\_\_\_\_

c. Name of Program \_\_\_\_\_ Date of Referral \_\_\_\_\_ Type of Service \_\_\_\_\_

d. Name of Program \_\_\_\_\_ Date of Referral \_\_\_\_\_ Type of Service \_\_\_\_\_

4. ☐ No, Services Are Not Required By This Agency, Recommended For Closure

a. ☐ Services are not needed since there are no safety/risk interventions necessary and there is no court involvement

b. ☐ Objectives achieved

c. ☐ Family refuses services and insufficient evidence to petition the court

5. ☒ Recommendation For Case Closure / Transfer (The following tasks need to be completed)

a. Worker and family jointly discussed and created a plan for the following: closing/transfer, service progress, and the need for other services or referrals: ☒ YES ☐ NO (if no, explain) \_\_\_\_\_

b. If services are to be terminated by the agency, was the Family Service Intended Action letter (DHR/SSA 1068A) to the family completed 10 days prior to case closure?

☐ YES (list date) \_\_\_\_\_ ☐ NO (if no, explain) \_\_\_\_\_

## B. COMMENTS TO SUPPORT SERVICE RECOMMENDATIONS

Safety Plan and Plan of Safe Care developed and agreed with Ms. Thomas, biological mother, to receive In-Home Services to ensure safety and support family needs identified in CANC-F and MFRA

## II. AUTHORIZATION



***Related Policies and Information:***

- Comprehensive Addiction and Recovery Act/CARA of 2016 P.L. 114-198
- The Child Abuse Prevention Treatment Act 2016
- SSA-CW# 18-11 Family Services Planning 2018
- SSA- CW# 18-06 CPS Screening and Case Determination Process 2017
- SSA-CW#15-21 MD Safety Assessment for Every Child and Safety Plan (SAFE-C) 2015
- SSA-CW# 16-01 Maryland Child and Adolescents Needs and Strengths Assessments (CANS-F; Family version) 2015
- SSA-CW#16-02 MD CHESSIE Documentation Time Frames 2015
- SSA #04-03 Maryland Families Risk Assessment (MFRA) 2003